

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 10. Bill of Costs**

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>

**9th Cir. Case Number(s)** 22-15260

**Case Name** The Estate of Isabella "Bella" Herndon v. Netflix Inc.

The Clerk is requested to award costs to *(party name(s))*:

Appellants The Estate of Isabella "Bella" Herndon et al.

I swear under penalty of perjury that the copies for which costs are requested were actually and necessarily produced, and that the requested costs were actually expended.

**Signature** /s/ Andrew Grimm **Date** 5/27/2025

(use "s/[typed name]" to sign electronically-filed documents)

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	<i>(each column must be completed)</i>			
DOCUMENTS / FEE PAID	No. of Copies	Pages per Copy	Cost per Page	TOTAL COST
Excerpts of Record*	3	1,316	\$0.10	\$ 394.80
Principal Brief(s) <i>(Opening Brief; Answering Brief; 1<sup>st</sup>, 2<sup>nd</sup>, and/or 3<sup>rd</sup> Brief on Cross-Appeal; Intervenor Brief)</i>	6	105	\$0.10	\$ 63.00
Reply Brief / Cross-Appeal Reply Brief	6	50	\$0.10	\$ 30.00
Supplemental Brief(s)	0	0	\$0.00	\$0.00
Petition for Review Docket Fee / Petition for Writ of Mandamus Docket Fee / Appeal from Bankruptcy Appellate Panel Docket Fee				\$0.00
<b>TOTAL:</b>				<b>\$487.80</b>

**\*Example:** Calculate 4 copies of 3 volumes of excerpts of record that total 500 pages [Vol. 1 (10 pgs.) + Vol. 2 (250 pgs.) + Vol. 3 (240 pgs.)] as:

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

THE ESTATE OF ISABELLA “BELLA”  
HERNDON, JOHN HERNDON, J.H., a  
minor, AND T.H., a minor,

*Plaintiffs-Appellants,*

v.

NETFLIX, INC.,

*Defendant-Appellee.*

Civil Appeal No. 22-15260

**MEMORANDUM IN SUPPORT OF BILL OF COSTS**

Appellants respectfully request that this Honorable Court tax against Appellee **\$487.80** in appellate costs incurred, pursuant to Rule 39 of the Federal Rules of Appellate Procedure.

This Bill of Costs is timely. The appellate bill of costs is due “within 14 days after entry of judgment[.]” Fed. R. App. P. 39(d)(1). Here, this Honorable Court entered a dispositive order on May 13, 2025. 9th.Cir.Dkt.144. Accordingly, an appellate bill of costs filed on or before May 27, 2025, is timely. See Fed. R. App. P. 39(d)(1).

Appellants are entitled to taxation of their appellate costs. Appellate costs are awarded as the appellate “court orders[.]” Fed. R. App. 39(a). Here, the U.S. Supreme Court GVR’d – *i.e.*, it granted cert, vacated, and remanded in light of intervening precedent. 9th.Cir.Dkt.125.

Then, the U.S. Supreme Court ordered recovery of costs in Appellants' favor. 9th.Cir.Dkt.133 at 3 (“**IT IS FURTHER ORDERED** that the petitioners, The Estate of Isabella “Bella” Herndon, et al., recover from Netflix, Inc., Three Hundred Dollars (\$300.00) for costs herein expended.”). That order regarding the taxation of costs issued by a higher court governs whether and what party is entitled to the taxation of appellate costs by the lower courts. See City of San Antonio v. Hotels.com, L.P., 593 U.S. 330, 338 (2021).<sup>1</sup> Given the Supreme Court’s order, Appellants are entitled to appellate costs.

The specific category of costs sought here are for the “cost of producing necessary copies of a brief or appendix[.]” See Fed. R. App. P. 30(c). True and correct pdf copies of the FedEx printing receipts are appended to this filing for the Court’s review in determining taxable costs. The Ninth Circuit sets a maximum taxable cost at “10 cents per page, or at actual cost, whichever is less.” 9th Cir. R. 39-1.3; see Fed. R. App. 39(c).

Actual costs exceed 10 cents per page, so Appellants are requesting the maximum taxable rate.

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<sup>1</sup> Then, this Honorable Court further remanded the case to the District Court for consideration of the intervening authority, 9th.Cir.Dkt.144, largely mirroring the posture upon which the U.S. Supreme Court has ordered the recovery of appellate costs.

Date: May 27, 2025

Respectfully submitted,

/s/ Andrew Grimm

Andrew Grimm

DIGITAL JUSTICE FOUNDATION

15287 Pepperwood Drive

Omaha, Nebraska 68154

(531) 210-2381

[Andrew@DigitalJusticeFoundation.org](mailto:Andrew@DigitalJusticeFoundation.org)

*Attorney for The Estate of Isabella “Bella”  
Herndon, John Herndon, M.H., a minor,  
T.H., a minor*

### **CERTIFICATE OF COMPLIANCE**

This filing contains **505** words. This filing was prepared in Microsoft Word using Times New Roman 14-point font.

Date: May 27, 2025

Respectfully submitted,

/s/ Andrew Grimm

Andrew Grimm

### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit via electronic filing.

Date: May 27, 2025

Respectfully submitted,

/s/ Andrew Grimm

Andrew Grimm



Andrew Grimm <andrew.b.grimm@gmail.com>

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Shipping		\$19.99
<b>Total Discount</b>		<b>-\$14.30</b>
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<b>Total</b>		<b>\$109.74</b>

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